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2 BILL NO. R-79-12- 11

3 RESOLUTION NO. R- Lush

4 A RESOLUTION CALLING FOR WITHDRAWAL OF  
5 THOSE PORTIONS OF SENATE BILL NO. 76  
6 DEALING WITH PROHIBITION OF CONDEMNATION  
7 ACTIONS AGAINST PUBLIC UTILITIES BY  
8 MUNICIPALITIES.

9 WHEREAS, the existing law of the State of Indiana  
10 (IC 8-1-2-90 through 8-1-2-100) not only permits municipalities  
11 to own and operate, but also to purchase, condemn, construct,  
12 acquire and hold any utility within the boundaries of such  
13 municipality and within a radius of six (6) miles from the  
14 corporate limits of such municipality; and,

15 WHEREAS, there is presently pending before the Common  
16 Council of the City of Fort Wayne a petition signed by the  
17 requisite number of voters requesting a special election  
18 to determine whether the City of Fort Wayne shall, among  
19 other things, purchase, condemn and operate an electric  
20 public utility; and,

21 WHEREAS, Senate Bill No. 76 now proposed for enactment  
22 by the General Assembly of Indiana would forbid the City of  
23 Fort Wayne after March 1, 1980, from bringing any action in  
24 the Circuit or Superior Court against any public utility  
25 as defendant for condemnation of its electric utility property,  
26 which Senate Bill if passed into law would destroy the  
27 effect of said pending petition for a special election.

28 NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF  
29 FORT WAYNE, INDIANA:

30 Section 1. That the portion or portions of  
31 said Senate Bill No. 76 prohibiting any municipi-  
32 pality from bringing an action in the Circuit or  
33 Superior Court of any County against any public  
34 utility as defendant for condemnation of electric  
35 utility property be completely withdrawn from any  
consideration by the General Assembly of the State  
of Indiana;

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3 Section 2. BE IT FURTHER RESOLVED that the Common  
4 Council of the City of Fort Wayne opposes any law  
5 which prohibits a municipality from bringing any  
6 action in any court against any corporation organized  
7 under IC 8-1-13 or any public utility as defendant  
8 for condemnation of its electric utility property.

9 Section 3. BE IT FURTHER RESOLVED that copies of  
10 this Resolution be published and given to all  
11 representatives in the General Assembly of Indiana  
12 representing not only Fort Wayne but also Allen  
13 County, all persons sponsoring or working for the  
14 enactment of said Senate Bill No. 76 and all members  
15 of the Cities and Towns Committee in the General  
16 Assembly of the State of Indiana.

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18 Vivian A. Schmidt  
19 Councilwoman  
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32 Approved as to form and legality  
33 this 11th day of December, 1979.

34 John H. Logan  
35 John H. Logan, Attorney for Common Council

Read the first time in full and on motion by \_\_\_\_\_, seconded by

\_\_\_\_\_, and duly adopted, read the second time by title and referred to the

Committee on \_\_\_\_\_ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: \_\_\_\_\_

CITY CLERK

Read the third time in full and on motion by J. Schmidt,

seconded by Deliver, and duly adopted, placed on its passage.

~~PASSED~~ (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>3</u>	<u>4</u>	_____	<u>2</u>	_____
<u>BURNS</u>	<u><del>2</del></u>	<u>X</u>	_____	_____	_____
<u>HINGA</u>	_____	<u>X</u>	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	_____	_____
<u>MOSES</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	<u>X</u>	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	<u>X</u>	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 12-11-79

Charles W. Hesterman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE  
(RESOLUTION) No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
ATTEST: (SEAL)

Charles W. Hesterman  
CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

Charles W. Hesterman  
CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

\_\_\_\_\_  
MAYOR